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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

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THE PEOPLE,

Plaintiff and Respondent,

v.

ROXANNE SMALLER,

Defendant and Appellant.

C087089

(Super. Ct. No. 16CF05626)

Appointed counsel for defendant Roxanne Smaller has filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) We will affirm the judgment.

**FACTUAL AND PROCEDURAL BACKGROUND**

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 123-124.)

In January 2017 defendant pleaded no contest to carrying a concealed dirk or dagger. (Pen. Code, § 21310.) In March 2017 the trial court suspended imposition of sentence and granted 36 months' probation. Her probation conditions included not using or possessing alcohol or controlled substances without a current prescription from a licensed physician, complying with substance testing, completing a substance abuse treatment program, and serving 20 days in county jail. The trial court imposed various fines and fees.

In May 2017 defendant admitted to violating probation due to failing to attend a required meeting. The trial court struck a separate alleged probation violation due to defendant failing to report to her probation officer, with a waiver pursuant to *People v. Harvey* (1979) 25 Cal.3d 754, 758. The trial court revoked and reinstated probation and ordered defendant to serve 30 days in county jail.

In September 2017 defendant admitted to violating probation due to failing to report to her probation officer. The trial court revoked and reinstated probation and ordered defendant to serve 60 days in county jail.

Later that month, defendant admitted to testing presumptively positive for opiates. The trial court revoked probation and referred the matter to drug court.

Defendant subsequently declined to participate in drug court. In November 2017 the trial court reinstated probation and ordered defendant serve 90 days in county jail and complete a residential substance abuse program.

In February 2018 defendant admitted to testing positive for morphine three times in January 2018. The trial court revoked probation.

In March 2018 the trial court sentenced defendant to two years in county jail.

Defendant timely appealed and did not obtain a certificate of probable cause.

## **DISCUSSION**

Appointed counsel filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*People v. Wende*,

*supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no such communication from defendant.

We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

### **DISPOSITION**

The judgment is affirmed.

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RAYE, P. J.

We concur:

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BLEASE, J.

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RENNER, J.